

Policy and Legal Advice Centre (PLAC III)

Terms of Reference (ToR) for a Short-Term assignment

Technical assistance requested:	1 (one) Senior Non-Key Expert in the area of Negotiating Ch. 33, Financial and budgetary provision; Value Added Tax
Project Title:	Policy and Legal Advice Centre (PLAC III), Serbia
Ref:	EuropeAid/139295/DH/SER/RS
Service Contract No.:	(CRIS) 2018/404-529
Main beneficiary:	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	The Ministry of Finance, Serbian Tax Administration (STA)
Budget Line /Expert Category:	One Senior Non-Key Expert
Duration of the assignment:	25 working days (WD), October 2021 – May 2022

1. Relevant background information

Background information in relation to the PLAC III project:

The scope of PLAC III project is to provide support to relevant national institutions in charge of alignment of national legal acts with the EU *acquis* and to contribute to further building of capacities of relevant national structures for successful carrying out of accession negotiations.

The PLAC III project should achieve two results:

RESULT 1- Enhanced compatibility of national legislation with EU legislation and its effective implementation

RESULT 2 - Enhanced capacities of the relevant national structures for successful carrying out of accession negotiations

In general, the project aims at fostering the process of accession negotiations of the Republic of Serbia by supporting the effective alignment of national legislation with the Union *acquis* and its implementation and by further building the capacities of involved carriers of the EU integration process in the Republic of Serbia. After completion of screening process in 2015, Serbian public administration has entered into much more demanding and obliging exercise of accession negotiations, whereby each step and every decision should result in approaching actual membership in the EU. For this scenario to happen in accordance with planned dynamics, preparedness, adequate institutional capacity of public administration with highly

competent staff is of crucial importance. In the core period of the negotiations, the PLAC III Project shall support domestic line institutions and the negotiating structures both in performance of quality operational work in relation to harmonisation process and in the effective coordination during various stages and phases in the process for different negotiation chapters.

2. Background information in relation to Chapter 33 – Financial and budgetary provisions

At the eighth Intergovernmental Conference held on June 5, 2018, in Luxembourg, Serbia opened a chapter within EU accession negotiations – Chapter 33 – Financial and Budgetary Provisions. Chapter 33 includes three principal sections: traditional own resources, resources based on value added tax and resources based on gross national income. Serbia 2020 Report issued by the European Commission states that Serbia is moderately prepared in the area of taxation. Some progress was made with the ratification of the OECD Convention on mutual administrative assistance in tax matters (MAC) as well as on further reform of the tax administration. Last year's recommendations were thus partially implemented. In the coming year, Serbia should continue with implementation of the tax administration reform programme in order to streamline the tax administration's activities while ensuring sufficient human and IT resources for this purpose, improve tax collection and combat the informal economy.

Serbian Tax administration (STA) is a body within the Ministry of Finance in charge of the assessment, audit and collection of public revenues. Serbian Ministry of Finance has prepared a comprehensive Public Financial Management Reform Program 2016-2020, which was adopted by the Government in November 2015. This strategic document and its proper implementation are extremely important in the context of the EU accession negotiations of Serbia. One of the main elements of tax reforms in Serbia, is to introduce a modern, advanced tax systems in line with systems in EU Member States and other OECD countries. The establishment of the efficient Tax administration in line with the EU standards requires further modernization and strengthening of institutional capacities, both in the Tax administration itself and in other organizations and bodies involved in the management of the tax system.

Competences for the implementation of the EU acquis in the field of value added tax resources are divided between the Ministry of Finance – Fiscal System Department and Tax Administration, as integral part within this Ministry. The Fiscal System Department performs normative activities related to drafting laws and other regulations governing the tax system and tax policy, while the Tax Administration is competent for the implementation of the regulations. The Law on Tax Procedure and Tax Administration establishes the jurisdiction of the Tax Administration for calculation, collection and control of public revenues, including value added tax.

The Serbian Tax Administration (hereinafter "STA") has been in process of transformation themselves into a highly effective tax administration by undertaking a couple of development projects. One of the purposes of the transformation is to the promote the electronic communication with taxpayers and the development of the tax services through an information and technology system (hereinafter "ICT system").

The Law on Value Added Tax and bylaws adopted based on this law are partly harmonized with the EU acquis in this area, more specifically: Council Directive 2006/112/EC, Council Directive 2007/74/EC, Council Directive 2006/79/EC, Council Directive 86/560/EEC, Council Directive 2008/9/EC, Council Directive 83/182/EEC.

In accordance with the recommendations of the European Commissions, STA remained committed to the successful implementation of reform process after the completion of first phase of reorganization. In line with the recommendations, it is planned to continue with

reform process and the Transformation programme for period 2021-2025 was adopted in May 2021 .

On January 2019 Serbia has answered the Questionnaire concerning the ability to fulfil the administrative conditions in the area of the European Union's own resources in which the Tax Administration was responsible for the part related to the resources based on value added tax (VAT). This Questionnaire was sent to the DG Budget.

The assistance of the PLAC project to the Ministry of Finance-Tax Administration is needed in order to strengthen the capacities and to ensure correct calculation, accounting, forecasting, collection, payment, control and reporting on implementation of the EU's own resources policy and rules.

At present, there is no on-going and/or planned assistance projects for the activities covered by this ToR.

3. Description of the assignment:

3.1 Specific objectives

The specific objective of this assignment is to provide assistance to the Ministry of Finance – more specifically the STA in strengthening the capacities in order to ensure correct collection, calculation, accounting, forecasting, payment, control and reporting on implementation of the EU's own resources policy and rules.

The main focus should be on Council Directive 2006/112/EC and EURATOM Regulation 1553/89 regarding various issues connected to VAT payments, e.g. methodology of reporting the VAT base, method to set up a reporting system for annulled tax audit decisions, tax regulations regarding the transfer of VAT and tax credit, etc.

3.2 Requested services

The Senior NKE in the area of value added tax (VAT) is requested to provide the following services:

1. Review and assess the current situation and identify necessary adjustments needed for the system to establish a starting point for collecting information and establishing a reporting methodology
2. Development of a reporting methodology and establishment of reporting mechanisms
3. Prepare and conduct a series of trainings¹ covering the following subjects based on the Council Directive 2006/112/EC and EURATOM Regulation 1553/89):
 - a) Is the amount of resources based on VAT to be paid determined on the basis of:
 - debts based on tax returns and tax decisions or
 - percent amount of gross VAT collection or
 - percent amount of net VAT collection

¹¹ Number of trainings/WS to be determined during the inception based on the identified needs

- b) Is the payment of VAT on the basis of interest included in the payment and is the following information separately presented in the report:
 - amount of interest collected in VAT,
 - VAT according to the tax audit decision,
 - decisions on approved deferral of VAT payment
 - c) Treatment of the tax credit from the perspective of VAT payment, as well as reporting (whether the amount of the tax credit is included in the report; methodology of reporting the tax credit)
 - d) Methodology of reporting the VAT base
 - e) Treatment of annulled tax audit decisions on assessed VAT (method to set up a reporting system for annulled tax audit decisions)
 - f) Regulations, i.e. tax regulations regarding the transfer of VAT and tax credit
4. Creating a guide that provides answers to various issues related to the implementation of the EU legislation in the area as described above under Ch. 3.1 and other possible questions by the STA in the course of the missions

3.3 Outputs

The Senior NKE is expected to deliver the following outputs:

1. A Methodology on reporting and reporting mechanisms drafted
2. A guide on the treatment of the categories in the reporting methodology drafted
3. Trainings held

3.4 Reporting

The SNKE shall provide the following reports by using the templates of the Project:

- Final Mission Report, not later than one week after the completion of tasks under this assignment. This report will include the description of all activities and outputs provided by the SNKE in the context of this assignment.
- A brief interim report - only upon request of the PLAC III team: the TL and/or KE2

Submission of reports:

- A draft mission report shall be submitted to the Team Leader of the Project for review and comments by the end of the mission.
- The final version of the mission report, prepared in the agreed quality, shall be submitted to the Team Leader of the Project for review, comments and final approval
- The reports shall be signed by the SNKE and the Team Leader, responsible for endorsing the reports.
- The reports and all prepared documents shall be submitted in hard copy and electronic version to the Team Leader of the project.

3.5 Specifics

The SNKE shall work under the guidance and follow the instructions of the Team Leader. The SNKE shall collaborate with the project team, other experts involved and representatives of the relevant beneficiary institutions.

Each of the short-term missions, the timing and duration shall be agreed with the Beneficiary and the PLAC team prior to each planned mission.

3.6 Expert input

3.6.1 Total working days

25 working days (WDs) in total have been planned for Senior Non-Key Expert.

3.6.2 Period of the assignment and Starting day

It is expected that the work will be performed during several missions in the period from October 2021 until May 2022. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

The SNKE has to deliver 100% of the input in Serbia, unless otherwise agreed due to extraordinary circumstances (i.e. COVID-19). Home-based days are subject to a prior approval by the EU Delegation Project Manager responsible for the PLAC III project.

3.6.4 Working language

English.

4. Experts' Profile – Senior NKE (25 working days):

4.1 Qualifications and skills (25 points)

- A level of education, which corresponds to completed university studies of at least 3 years attested by a diploma such as law, economy, finance or similar, relevant to the assignment
- Computer literacy
- Proficiency in report drafting
- Excellent communication and analytical skills
- Proficiency in the English language
- Independent and free from conflicts of interest in the undertaken responsibilities

4.2. General professional experience (25 points)

- At least 8 (eight) years of general postgraduate professional experience related to EU acquis, gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- At least 3 (three) preferably 5 (five) years of postgraduate professional experience working with EU's VAT based sources income and the EU member states' reporting obligations

- Postgraduate professional experience in relation to Council Directive 2006/112/EC and EURATOM Regulation 1553/89 will be an asset

5. Applications

Applications (EU format CV and application letter in English) need to be submitted by e-mail to mbayard@dmiassociates.com and mail to akhani@dmiassociates.com no later than 14 October 2021, 17:00 hrs, titled:

“Application for the position – Senior NKE in the area of Ch. 33, Financial and budgetary provisions, VAT”

References must be available on request. Only short-listed candidates will be contacted.

Pre-selected experts will be requested to sign Statement of Availability (SoA) in which they acknowledge and confirm the availability to accomplish this assignment within the indicated period, at the indicated starting date and within the number of working days requested.

The Project is an equal opportunity employer. All applications will be considered strictly confidential.

Advertised posts are not available to civil servants or other officials of the public administration in the beneficiary country, Serbia.

For more information, please contact Project Manager at DMI Associates Marion Bayard: mail to mbayard@dmiassociates.com or Arianne Khani mail to akhani@dmiassociates.com